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**UNITED STATES BANKRUPTCY COURT**  
**NORTHERN DISTRICT OF ILLINOIS**

IN RE: ) Chapter 13  
Oscar F. Ceja ) Bankruptcy Case No. 08-27611  
Susan M. Ceja )  
 )  
Debtors ) Judge Pamela S. Hollis

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Debtors, Oscar F. Ceja and Susan M. Ceja,

Movants,

Vs.

Chase Bank USA, N.A.

Respondent.

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**PLAINTIFF'S RESPONSE TO DEFENDANT'S MOTION TO COMPEL**

NOW COMES the Respondent, Chase Bank USA, N.A., in response to Petitioner's Motion to Compel, states as follows:

1. That Respondent acknowledges its failure to comply with the 21 day repayment period contained within the January 26, 2009 court order.
2. That Michael Fine, attorney for Respondent, had communications with an Allison Gans, Attorney for Petitioner, on or around the date of entry of the January 26, 2009 order. It was explained by Mr. Fine at that time that because the refund was to be remitted by a separate, out of state division of Respondent it would almost assuredly take Plaintiff longer than the 21 day repayment period to reimburse said funds.
3. That Plaintiff's attorneys show no record of receiving the March 10, 2009 faxed letter attached as Exhibit B to Petitioner's motion.
4. That Plaintiff's attorneys did not receive any phone calls regarding non-payment of the turnover funds from Petitioner's attorneys until on or about May 5, 2009.
5. That Plaintiff's attorneys received the May 6, 2009 faxed letter (attached as Exhibit C to Petitioner's motion). The May 5<sup>th</sup>, 2009 phone call and the May 6<sup>th</sup>, 2009 fax gave Plaintiff its initial notice that the refund had not yet been remitted.
6. That within 7 days of the receipt of the May 6, 2009 faxed letter, the refund check had been mailed to Movants.

7. That the refund check was mailed prior to Respondent's receipt of the Motion to Compel.
8. That the delay in Plaintiff's processing of the refund check was unintentional.
9. That the Movants have provided no justification in their Motion to Compel for the arbitrary \$100.00 per day sanction that has been requested.
10. That the proposed order attached by Movants to the Motion to Compel seeks only a refund of the previously ordered amount (which was returned prior to the Motion) and attorney's fees.

WHEREFORE, Plaintiff prays that this honorable Court deny Petitioners' Motion to Compel with prejudice.

Chase Bank USA, N.A.

By: /s/ Kevin W. Mortell

Under penalties provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that (s)he verily believes the same to be true.

Chase Bank USA, N.A.

By: /s/ Kevin W. Mortell

Kevin W. Mortell

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